

## REMARKS

Claim 10 is added to the application, which is dependent from claim 1, and recites that mercaptoarylazole compound is the zinc salt of 2-mercaptobenzimidazole. Claim 11 is also added, which is dependent from claim 10, and this claim recites to a latex glove formed from a latex film of the compound of claim 10. These new claims are added to recite claims as to the embodiment of the invention wherein the mercaptoarylazole compound is the zinc salt 2-mercaptobenzimidazole to parallel the claimed embodiments of the invention wherein the mercaptoarylazole compound in the latex compounds and gloves formed from these compounds is the zinc salt of 2-mercaptotoluimidazole as recited in claims 3 and 8. Thus, the claims are made solely to recite parallel claiming schemes for the two mercaptoarylazole compounds recited in the Markush grouping of claim 2 and are added as a matter of right by the applicant subsequent to the first office action in the instant application. The addition of these claims is not made for purposes of patentability under any section of the patent law and does not effect the literal or equivalent scope of any claims originally filed in the instant Application. Moreover, the claims are supported in both the specification and the original claims and, thus, do not add new matter.

At pages 2-3 of the Office Action, the Examiner rejects claims 1-9 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,673,404 to Yeh *et al.* ("Yeh"). Reconsideration and withdrawal of this rejection is respectfully requested.

Yeh issued on January 6, 2004 from an application filed on September 30, 1999 which was a continuation-in-part of an application that was filed on February 12, 1999. As shall be discussed below, the inventor was in possession of the invention, that is latex film compound comprising the reaction product of a) an antioxidant, b) a mercaptoarylazole compound, c) a polymer, and d) a curing system prior to February 12, 1999, or was in possession of this invention and diligently pursued the invention up to February 12, 1999, which is the earliest effective filing date of Yeh. Accordingly, Yeh is not prior art under 35 U.S.C. § 102(e), or any other provision of the Patent Law. Thus, the present invention, as set forth in claims 1-11 of the instant Application, is not anticipated by Yeh.

Enclosed is the Declaration of Robert Thomas Dzikowicz Under 37 C.F.R. § 1.131 (the "Dzikowicz Declaration"), which establishes that the inventor completed his invention in the United States prior to at least February 12, 1999, or was in possession of the present invention and diligently pursued the invention by February 12, 1999. As discussed in the Dzikowicz Declaration, the inventor developed and completed a composition comprised of an antioxidant, AGERITE® STALITE® S, which is a mixture of octylated diphenyl amines and, thus, an amine antioxidant, and an antioxidant synergist mercaptoarylazole compound, VANOX® ZMTI, which comprises zinc salt of 2-mercaptotoluimidazole, and this composition was used, with other materials, to make carpet backing and foam rug underlay. (See, Dzikowicz Declaration at ¶ 4 and Exhibit A to the Dzikowicz Declaration). Carpet backing and foam rug underlay are latex films. (See, Dzikowicz Declaration at ¶ 5). Research on this

combination began by at least March 1998 and the combination was competed for end use testing to form a latex film by around the end of June 1998. (See, Dzikowicz Declaration at ¶ 4)

As discussed in the Dzikowicz Declaration, additional research and diligent pursuit of the invention continued through 1998 and into 1999, up to, at least February 12, 1999. As of January 20, 1999, work continued on combinations of antioxidant and antioxidant synergist mercaptoarylazole compounds, including 2-mercaptotoluimidazole and its zinc salt. (See, Dzikowicz Declaration at ¶ 6). Exhibit B to the Dzikowicz lists the combination of materials that were studied during this testing project which began on January 20, 1999, and prior to the earliest effective filing date of Yeh. Further, a Latex Monthly Report issued by the inventor on January 29, 1999, again prior to the earliest effective filing date of Yeh, demonstrates that, at that time, the inventor was working with combinations of antioxidant, AGERITE® STALITE® S, and antioxidant synergist, the zinc salt of 2-mercaptotoluimidazole. (See, Dzikowicz Declaration at ¶ 7 and Exhibit C to the Dzikowicz Declaration). This combination of antioxidant and antioxidant synergist is the same as the combinations of materials studied in the March through June 1998 time frame, which is discussed above and at ¶ 4 of the Dzikowicz Declaration.

Based in the foregoing, and the statements and documents set forth in the Dzikowicz Declaration, the inventor had completed his invention by February 12, 1999, or at the very least was in possession of this invention and diligently pursued his invention up to February 12, 1999. The combination of an

antioxidant and a mercaptoarylazole antioxidant synergist, the zinc salt of 2-mercaptotoluimidazole, was developed by June 1998 and formulated into latex films in the form carpet backing and foam rug underlay. The other documentary evidence set forth in the Dzikowicz Declaration, particularly the Latex Monthly Report issued on January 29, 1999 and the study discussed in Exhibit B to the Dzikowicz Declaration, establishes that research on the combination of antioxidant and mercaptoarylazole compound, and its incorporation with other materials to form latex film compound comprising the reaction product of: a) an antioxidant, b) a mercaptoarylazole compound, c) a polymer, and d) a curing system continued up to and including February 12, 1999. Thus, the inventor was in possession of either the whole invention or something falling within the independent claim of the instant application prior to the February 12, 1999 earliest effective filing date of Yeh and, accordingly, Yeh is not prior art to the present invention. (See, M.P.E.P. § 715.02.). Thus, the Examiner is respectfully requested to withdraw Yeh as a prior art reference and further to withdraw the rejection of claims 1-9 under Yeh. Allowance of claims 1-11 of the instant application is earnestly solicited.

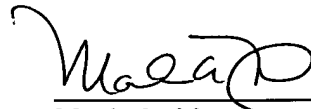
### **Conclusion**

The instant application is believed to be in condition for allowance. A Notice of Allowance of claims 1-11 is respectfully requested. The Examiner is invited to telephone the undersigned at (908) 722-0700 if it is believed that further discussions, and/or additional amendment would help advance the prosecution of the instant application.

If any additional extension of time for this response is required, the applicant requests that this be considered a petition therefor. Please charge any required petition fee to the Deposit Account No. 14-1263.

Please charge any insufficiency of fees, or credit any excess, to the Deposit Account No. 14-1263.

Respectfully submitted,

  
Mark A. Montana  
Registration No. 44,948

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NORRIS, McLAUGHLIN & MARCUS  
P.O. Box 1018  
Somerville, NJ 08876-1018  
(908) 722-0700

101221-594(687) US